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ARIZONA CORPORATION COMMISSION

IN THE MATTER OF THE FILING BY
ARIZONA WATER COMPANY OF
PROPOSED TARIFF NO. TE-264,
TREATED EFFLUENT SERVICE.

W-01445A-00-0319

ARIZONA WATER COMPANY'S RESPONSE TO STAFF REPORT

Arizona Water Company hereby submits its response and comments to the Staff Report filed by the Utilities Division in this matter on or about August 8, 2000.

I. INTRODUCTION

The analysis and conclusions in the Staff Report about Arizona Water Company's Proposed Tariff, and its relationship to Tariff RW-256 are incorrect. In addition, the irrelevant issues raised by intervenor City of Casa Grande ("City") should be disregarded for the purposes of the Staff Report. First, Tariff No. TE-264 (the "Proposed Tariff") correctly does not establish specific dollar rates because the underlying effluent production and purchase agreements have not been finalized between the effluent producers and the Company's customers, who will be the end users throughout Arizona Water Company's CCN areas.

Second, Arizona Water Company is not asking the Commission to decide the issues interjected by the City in this proceeding. Neither Staff nor the Commission need take

1 a position on the legal issue of whether an entity holding a CCN has an exclusive right to sell
2 effluent within that CCN in order to approve the Proposed Tariff. In the public interest,
3 Arizona Water Company is proposing to establish uniform pricing procedures such as a
4 monthly minimum charge based on meter size, commodity charges at cost, and
5 administrative and handling costs based on percentages of effluent costs, in order to advance
6 the public interest by providing certainty and predictability and to aid in drafting contracts for
7 the delivery and use of effluent in the Company's service areas throughout the State.
8 Moreover, the Proposed Tariff provides a more efficient framework for this service than
9 would individual filings.

10 **II. THE PROPOSED TARIFF PROPERLY EXPRESSES CHARGES AS**
11 **PERCENTAGES OF COSTS, RATHER THAN ESTABLISHING**
12 **SPECIFIC DOLLAR AMOUNTS, WHICH BY DEFINITION WILL BE**
13 **DEPENDENT UPON FUTURE AGREEMENTS BETWEEN**
14 **EFFLUENT PRODUCERS AND THE COMPANY'S CUSTOMERS.**

15 **A. By Expressing Percentages, the Proposed Tariff Presents a Uniform**
16 **Pricing Procedure.**

17 The Proposed Tariff allows the Company to recover only the cost of providing
18 effluent service within its CCN areas covered by the Proposed Tariff. The Company is not
19 proposing a rate increase for any present or future customer. In this way, the Proposed Tariff
20 presents a uniform pricing procedure, which is a common tariff structure. The Proposed
21 Tariff's uniform pricing procedure informs potential customers of the availability and general
22 terms of the service without a specific commodity rate so that the customer and the effluent
23 producer may arrive at the rate that will be acceptable to each of them.

24 The Company's application is not for an increase in an existing tariff. It is not
25 a rate increase. It does not increase charges to any customer. In the future, it is unlikely that
26 it will ever affect even one per cent of the Company's customers. It is not a rate proceeding
27 under A.R.S. §40-250. The Commission has approved numerous tariff filings without any
28 rate of return finding including, for example, the Company's Tariff NP-260 which was

1 approved as a new service offering in 1994. Much of the language in the Proposed Tariff
2 that Staff now finds objectionable was already approved in Tariff NP-260.

3 Staff seems to take the position that the specifics of the Proposed Tariff are still
4 "too hypothetical" for the Commission to consider. But attempting to set specific rates yet to
5 be negotiated between effluent producers and end users would be contrary to the need to
6 have revenue offset by matching expenses. Expressing prices other than as a percentage of
7 the effluent cost would be futile, since the basic charges must first be negotiated between the
8 effluent producers and the end users. These basic costs are extremely varied, depending,
9 among other things, on the quantity, quality and conditions of production of the effluent from
10 a particular facility.

11 Contrary to the Staff's conclusions, Tariff RW-256 in Apache Junction is
12 distinguishable from the Proposed Tariff. The Proposed Tariff will apply to all of the
13 Company's service areas; Tariff RW-256 will continue to apply to existing Apache Junction
14 effluent customers. Under RW-256, the underlying producers and end users have already
15 agreed on a per acre foot charge for the effluent. In Apache Junction and other CCN areas,
16 the Company is and will be engaged in negotiations with a variety of effluent producers to
17 provide such service to its customers. As a practical matter, it is not possible for the
18 Proposed Tariff to set specific rates other than as specific percentages of these costs, which
19 are yet to be determined. Contrary to the Staff report, the Proposed Tariff does not create "an
20 ever changing, hypothetical situation." Staff Report at page 3. Rather, the Proposed Tariff
21 limits the Company's recovery of costs to pre-established percentages, which allows for a
22 sensible matching of revenues and expenses in each case.

23 **B. Individual Tariff Filings are Not Necessary**

24 For the reasons stated above, individual Tariff filings are not necessary. The
25 uniform pricing procedure, once fairly arrived at, obviates the need for individual filings. As
26 Staff has recommended in its Report, the agreements for effluent service under the Proposed
27 Tariff will be negotiated on a voluntary basis. However, the uniform pricing procedure the
28 Company has proposed actually facilitates agreements between the Company and customers

1 seeking effluent. As discussed below in Section III, the provision of effluent is in the public
2 interest. Accordingly, the Commission should reject the Staff's recommendation which
3 would discourage effluent use by requiring the Company to submit tariff filings for
4 Commission approval for each proposed effluent sales agreement.

5 **III. THE TARIFF IS IN THE PUBLIC INTEREST; IT WILL NOT RESULT**
6 **IN ANY DISCRIMINATION.**

7 The Proposed Tariff will also allow the Company to advance the very
8 important public policy of providing effluent service to its customers, decreasing their use
9 and dependence upon groundwater, consistent with the public policy of this State:

10 It is therefore declared to be the public policy of this
11 state that in the interest of protecting and stabilizing the general
12 economy and welfare of this state and its citizens it is necessary
13 to conserve, protect and allocate the use of groundwater
14 resources of the state and to provide a framework for the
15 comprehensive management and regulation of the withdrawal,
16 transportation, use, conservation and conveyance of rights to
17 use the groundwater in this state.

18 A.R.S. § 45-401(B). The Proposed Tariff is for a new service offering designed to encourage
19 the use of effluent. It communicates the Company's policy for providing effluent as one
20 element of a customer's overall water supply. The Company's desire to provide effluent
21 service is consistent with and advances state water conservation policy. In this vein, the Staff
22 Report ignores the Company's need to include the service of effluent as a critical element of
23 a coordinated water supply policy.

24 Furthermore, the continuation of existing pricing to current Apache Junction
25 effluent customers under Tariff RW-256 is not discriminatory. Both RW-256 and the
26 Proposed Tariff are based on a uniform pricing procedure. The differences between them are
27 based upon underlying effluent cost differences that are dependent upon localized factors
28 such as quality, quantity and production variables for the effluent. The concept behind the
Proposed Tariff provides for uniformity and fairness, not discrimination.

IV. ADDITIONAL CONSIDERATIONS

The City's intervention and objection filings falsely characterize the Proposed Tariff. The Commission should reject the City's irrelevant and erroneous allegations. A Proposed Tariff setting forth a uniform procedure for offsetting revenue with matching expenses is entirely different from attempting to gain control of, or to profit from, the sale of effluent within the Company's CCN.

Contrary to the Staff Report, it is not uncommon for a utility to provide service with a commodity purchased elsewhere and the Company vigorously asserts that its CCN vests it with the exclusive right to provide water service, including effluent, within the geographic area of its CCN's. It is not necessary for Staff or the Commission to decide whether that right is exclusive or not in order to approve the Proposed Tariff. The Proposed Tariff filing does not request or require such a finding, nor does Arizona Water Company seek an order compelling anyone to contract with it for production or purchase of effluent. Instead, Arizona Water Company is attempting to match its potential effluent-user customers with effluent producers to promote state public policy to provide effluent service to its customers, once an effluent producer is identified and a rate is negotiated between the producer and the end user.

Another "red herring" is the City's argument that "Arizona Water may have to substitute groundwater or CAP water if they are unable to obtain a sufficient amount of effluent from other sources to meet the demand." Staff Report at page 1. The Proposed Tariff has nothing to do with that issue. The City has it backwards: The Proposed Tariff benefits and encourages the delivery of effluent, which reduces reliance on groundwater and CAP water.

In addition, the Commission should take official notice of the Final Staff Report in Line Siting Docket Nos. L-00000I-99-091 (Decision No. 61852) and L-00000I-99-0094 (Decision No. 62426), which concludes that the Company is in full compliance with all Arizona Department of Water Resources rules and regulations concerning groundwater in its Casa Grande CCN area.

1 **IV. CONCLUSION**

2 For all of the foregoing reasons, Arizona Water Company respectfully submits
3 that the Staff Recommendations set forth on page 4 of the Staff Report be rejected, and that
4 the Commission grant Proposed Tariff TE-264.

5
6 RESPECTFULLY SUBMITTED this 23rd day of August, 2000.

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